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NO. 975

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DEC 14 2006

Application No. 09/616,718

Docket No. 11187-00001

(Artv Dkt No. Endow-2, DIV-01)

Reply to Office Action September 15, 2006

REMARKS

In the Office Action under reply, claims 1-3 and 13 have been examined. The Examiner has subjected the claims to restriction and has divided the claims as follows:

Group I. Drawn to methods of inhibiting ALDH-2 (claims 1, 2, and 13) and

Group II. Drawn to methods of increasing the concentration of 5-hydroxy-3-indole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde formed during catabolism of serotonin or dopamine (claim 3).

In a telephone interview with the Examiner on September 11, 2006, the undersigned attorney provisionally elected the claim of Group II for examination. Upon further consideration, applicants hereby elect the claims of Group I, i.e., claims 1, 2, and 13, for examination. This election is made with traverse for the reasons that will be discussed below.

The Examiner additionally rejected claim 3 under 35 U.S.C. §112, second paragraph, as indefinite.

In the claims 1, 3, and 13 have

Given the current election, the rejection of claim 3 is now moot and its withdrawal is respectfully requested.

THE AMENDMENTS TO THE CLAIMS

Claim 3 has been amended to correct the inconsistent language objected to by the Examiner. The term "aldehyde" has been replaced with the language "5-hydroxyindole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde" and the term "neurotransmitter" has been replaced with "serotonin or dopamine".

No new matter has been added.

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THE RESTRICTION REQUIREMENT:

The Examiner has divided the claims into two group as discussed above and asserts that restriction is proper as the subject matter of the two groups are related but distinct. The Examiner supports her position by arguing that, as other compounds such as disulfiram may be used to inhibit ALDH-2 thereby reducing alcohol consumption, the use of the compounds to increase 5-hydroxy-3-indole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde formed during catabolism of serotonin or dopamine has a different, patentably distinct effect. Applicants disagree.

As stated in Section 802.01 of MPEP, two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. In the present case and contrary to the Examiner's interpretation, the two groups of claims are in fact related. While the Examiner has stated that the use in inhibiting ALDH-2 is a different effect than increasing the specified aldehyde, these two uses are clearly related.

Looking first at the claims of Group I, the Examiner will note that all three claims require the administration of an amount of the compound of Formula I that is effective to increase the concentration of 5-hydroxyindole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde formed during catabolism of serotonin or dopamine. Looking next at the Group II claim, the Examiner will see that this claim is specifically directed to a method of increasing the concentration of 5-hydroxyindole-3-acetaldehyde or 3,4-dihydroxyphenyl-acetaldehyde formed during catabolism of serotonin or dopamine. As the Examiner will surely recognize, the subject matter of the two sets of claims are clearly related as one performing the method of the Group I claims would, by definition, perform the method of the Group II claim. The subject matter of the two claims clearly overlap and restriction between the claim sets is improper.

Given the above, Applicants respectfully request that the restriction requirement be withdrawn and that all claims be examined.

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CONCLUSION

For the foregoing reasons, Applicant submits that the claims are in condition for allowance. A Notice of Allowance is requested, and a prompt mailing thereof would be much appreciated. Should the Examiner have any questions, he is invited to contact the undersigned attorney at (650) 384-8755.

Respectfully submitted,

Date: December 14, 2006

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